

PROPERTY ASSESSMENT APPEAL BOARD
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

PAAB Docket No. 2015-077-00880R

Parcel No. 171/00460-066-000

Quintin & Patty Treadway,

Appellants,

v.

Polk County Board of Review,

Appellee.

Introduction

This appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on July 26, 2016. Quintin and Patty Treadway were self-represented. Assistant Polk County Attorney Christina Gonzalez represented the Polk County Board of Review.

The Treadways are the owners of a residential, two-story dwelling located at 208 Lynn Court, Altoona. Built in 1978, it has 1808 square feet of above-grade finish and 375 square feet of average quality basement finish. It also has a two-car attached garage, enclosed porch, and a deck. The property also has an aboveground pool, which is considered personal property and is not included in the assessment. The site is 0.245 acres. (Ex. A).

The property's January 1, 2015, assessment was \$204,300, allocated as \$32,300 in land value and \$172,000 in improvement value. On their protest to the Board of Review, the Treadways claimed the assessment was not equitable as compared with assessments of other like property under Iowa Code section 441.37(1)(a)(1)(a). The Board of Review denied the appeal. The Treadways then appealed to PAAB.

General Principles of Assessment Law

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2015). PAAB is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). PAAB considers only those grounds presented to or considered by the Board of Review, but determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. §§ 441.37A(1)(a-b). New or additional evidence may be introduced, and PAAB considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); see also *Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* Conversely, sale prices of abnormal transactions not reflecting market value shall not be taken into account, or shall be adjusted to eliminate the factors that distort market value, including but not limited to foreclosure or other forced sales. *Id.* If sales are not available to determine market value then "other factors," such as income and/or cost, may be considered. § 441.21(2).

The "ultimate issue . . . [is] whether the *total values* affixed by the assessment roll were excessive or inequitable." *Deere Manufacturing Co. v. Zeiner*, 78 N.W.2d 527, 530 (Iowa 1956) (emphasis added). In examining the evidence presented in this case, our primary concern is with the property's total assessment, encompassing the land and improvements.

Inequity Claim

i. Applicable Law

To prevail on an inequity claim under section 441.37(1)(a)(1)(a), a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shivers*, 257 Iowa 575, 133 N.W.2d 709 (Iowa 1965). The six criteria include evidence showing

“(1) that there are several other properties within a reasonable area similar and comparable . . . (2) the amount of the assessments on those properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination.” *Id.* at 711.

The *Maxwell* test provides that inequity exists when, after considering the actual and assessed values of comparable properties, the subject property is assessed at a higher proportion of this actual value. *Id.* The *Maxwell* test may have limited applicability now that current Iowa law requires assessments to be at one hundred percent of market value. § 441.21(1). Nevertheless, in some rare instances, the test may be satisfied.

ii. Findings of Fact

The Treadways assert there have been no significant changes to the subject property, with the exception of the addition of a 192 square-foot enclosed porch. They do not believe this addition warrants an increase of \$26,000 from the 2014 assessment to the 2015 assessment. According to the subject’s cost report, the enclosed porch is given a replacement cost new of \$9,103. (Ex. B). Amy Rasmussen, Director of Litigation with the Polk County Assessor’s Office, testified that the remaining difference is primarily related to the 2015 revaluation of the property based on market changes.

They believe their home is assessed for more than other comparable properties on their immediate cul-de-sac, as well as the larger neighborhood area. They submitted an aerial photograph of the immediate neighborhood, which shows values of each

property, with ranges from roughly the low \$150,000 to the upper \$180,000, with their property at the upper end of the range. (Ex. 1). The aerial was generated from Zillow.com, and the values shown are estimated market values based on Zillow's automated valuation model and are not a representation of the actual 2015 assessments for the neighborhood. Further, it is unclear what sales or valuation methodology Zillow utilized to arrive at its value opinions for these properties.

The Treadways also submitted two opinions of value of their home from other web-based home sites – Trulia and Homes.com. (Ex. 1, p 2-3). The Trulia estimate of value is roughly \$179,500, and the Homes.com estimate of value is \$187,500. While the Trulia document includes six properties that it relied on for its analysis, Rasmussen testified these properties were one-story or split-level homes and not comparable to the subject property. At the hearing, the Treadways also appeared to agree that these properties were not comparable. The Homes.com estimate had no supporting documentation and it is unknown how it arrived at its valuation.

The Treadways also submitted a list of properties they considered comparable to their property and they believe demonstrate their home is not assessed equitably. (Exs. 2 & 3). One list includes fifty-two, two-story properties located within one-mile of the subject that are all, with three exceptions, assessed less than the subject. (Ex. 2). There is minimal information about these properties and we are unable to determine their comparability to the subject. Further, simply comparing assessments is insufficient evidence for an equity claim. Typically, the *Maxwell* equity analysis is done by comparing prior year sales (2014) to the current assessment (2015). Because there is no sales information for these properties, we cannot complete the *Maxwell* equity analysis.

They did submit six sales of two-story homes of similar age and living area within one-mile of the subject. (Ex. 3). Again, there is minimal information about these properties and we are unable to fully evaluate their comparability. Further, only one sold in 2014 and could be considered for an assessment/sales ratio analysis; unfortunately, the assessed value of this property was not submitted. Regardless, more than one comparable is necessary to prevail in an equity claim. *Montgomery Ward Dev.*

Corp. v. Cedar Rapids Bd. of Review, 488 N.W.2d 436, 441 (Iowa 1992), *overruled on other grounds by Transform, Ltd. v. Assessor of Polk County*, 543 N.W.2d 614 (Iowa 1996).

Rasmussen compared the subject property's cost analysis to the comparable properties that the Treadways submitted to the Board of Review. (Exs. B & D). She pointed out that there are differences in main level living areas, basement finish, and other differences such as the number of bathrooms and fireplaces that would result in differences between the cost of the properties and subsequent assessed values.

The Treadways testified that one of their fireplaces is not functional; however, they did not submit any evidence to support this assertion prior to their testimony at the hearing. If the Treadways believe the fireplace is over-valued because it is not functioning properly, we suggest they contact the Assessor's Office to request an interior inspection for future assessment cycles.

The Board of Review submitted two properties for an equity analysis. (Ex. F). However, like many of the Treadways' comparable properties, neither of these properties has sold and therefore we cannot develop an assessment/equity ratio analysis.

iii. Analysis

We note that much of the Treadways' testimony indicated a belief that their property's assessment exceeds its market value, which is an assertion that the property is assessed for more than authorized by law under section 441.37(1)(a)(1)(b). However, an over assessment claim was not raised to the Board of Review and is not properly before this Board.

Turning to the Treadways' equity claim, we find the Treadways have not submitted comparable properties with either a market value sale price or a reliable estimate of their market value. Further, we find the evidence of the subject's actual fair market value is insufficient and unreliable, and therefore the *Maxwell* equity analysis cannot be fully completed. For these reasons, we find the Treadways failed to show the subject property is inequitably assessed.

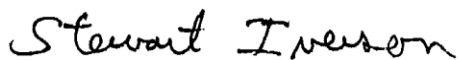
Order

Having concluded that the Treadways have not shown their property is inequitably assessed, PAAB ORDERS that the Polk County Board of Review's action is affirmed.

This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A (2015). Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will stay the period for filing a judicial review action. Any judicial action challenging this Order shall be filed in the district court where the property is located within 20 days of the date of this Order and comply with the requirements of Iowa Code sections 441.38; 441.38B, 441.39; and Chapter 17A.



Karen Oberman, Presiding Officer



Stewart Iverson, Board Chair

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